

Indigenous Data Sovereignty

Indigenous Peoples have always been ‘data warriors’. Our ancient traditions recorded and protected information and knowledge through art, carving, song, chants and other practises. Deliberate efforts to expunge these knowledge systems were part and parcel of colonisation, along with state-imposed practices of counting and classifying Indigenous populations. As a result, Indigenous Peoples often encounter severe data deficits when trying to access high quality, culturally relevant data to pursue their goals, but an abundance of data that reflects and serves government interests regarding Indigenous Peoples and their lands.

The concept of Indigenous data sovereignty (ID-SOV) is a relatively recent one, with the first major publication on the topic only appearing in 2016.¹ ID-SOV is defined as the right of Indigenous Peoples to own, control, access and possess data that derive from them, and which pertain to their members, knowledge systems, customs or territories.^{2,3,4} ID-SOV is supported by Indigenous Peoples’ inherent rights of self-determination and governance over their peoples, territories and resources as affirmed in the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP), as well as in domestic treaties. ID-SOV recognises that data is a strategic resource and provides a framework for the ethical use of data to advance collective Indigenous wellbeing and self-determination.^{5,6} In practice ID-Sov means that Indigenous Peoples need to be the decision-makers around how data about them are used.

Given that most Indigenous data is not in the possession of Indigenous Peoples, Indigenous data governance (ID-GOV) is seen as a key lever for addressing ID-SOV. ID-GOV harnesses Indigenous Peoples’ values, rights and interests to guide de-

cision-making about how their data are collected, accessed, stored, and used.⁷ Enacting ID-GOV results in Indigenous control of Indigenous data through both internal Indigenous community data governance policies and practices and external stewardship of Indigenous data via mechanisms and frameworks that reflect Indigenous values.

Oñati workshop and launch of Global Indigenous Data Alliance

In July 2019 a workshop on international law, ID-SOV and the UNDRIP was held at the International Institute for the Sociology of Law, Oñati, Spain. The purpose was to provide a forum for ID-SOV scholars and practitioners to advance the legal principles of Indigenous collective and individual data rights in the context of UNDRIP. The workshop brought together participants from seven nation states and included representation from the Maïam nayri Wingara Collective (Australia); Te Mana Raraunga Maori Data Sovereignty Network (Aotearoa New Zealand); and the United States Indigenous Data Sovereignty Network. The Oñati communiqué⁸ highlighted three key points:

- UNDRIP provides a necessary but insufficient foundation for the realisation of Indigenous rights and interests in data. Indigenous Peoples also require Indigenous-designed legal and regulatory approaches founded on ID-SOV principles.
- While national ID-SOV networks are best placed to respond to and progress data sovereignty for their peoples and communities, a global alliance is needed to advocate for and advance a shared vision for ID-SOV.
- The international focus on the protection of personal data and privacy rights is inadequate for Indigenous Peoples. There is an urgent need for the development and implementation of collective Indigenous privacy laws, regulations and standards.

A key outcome of the workshop was the formation of the Global Indig-

enous Data Alliance (GIDA). GIDA⁹ aims to provide a visible, collective approach to progressing ID-SOV and ID-GOV internationally, including building strategic relationships with global bodies and mechanisms. The UN Special Rapporteur on the Rights of Privacy has recognised ID-SOV in key UN documents¹⁰ and the UN Permanent Forum on Indigenous Issues has an enduring interest in Indigenous data disaggregation for self-determination and development. As a ‘network of networks’, GIDA is also well placed to share best practice with respect to ID-SOV and ID-GOV frameworks, tools and processes. GIDA is also the mandated steward for the CARE principles of Indigenous data governance, see below.

CARE principles for Indigenous data governance

A key concern for ID-SOV networks is the lack of protection afforded Indigenous Peoples within the Open Data and open science movements. The widely-used FAIR principles (Findable, Accessible, Interoperable, Reusable) are just one example of the increasing push for greater data sharing among researchers and entities.¹¹ The emphasis on increased data sharing creates a tension for Indigenous Peoples who want a greater say over how their data are protected, shared and used.

The CARE Principles for ID-GOV is a framework designed to operate alongside the FAIR Principles, and encourages data collectors and users to engage with Indigenous worldviews and ID-SOV perspectives when considering appropriate data use.¹² The four core principles comprising CARE are:

- *Collective benefit*: data ecosystems shall be designed and function in ways that enable Indigenous Peoples to derive benefit from data.
- *Authority to control*: Indigenous Peoples’ rights and interests in Indigenous data must be recognised and their authority to control such data be empowered.
- *Responsibility*: Those working with Indigenous data have a responsibility to share how those data are used to support Indigenous Peoples’ self-determination and collective benefit. Accountability requires meaningful and openly available evidence of these efforts

and the benefits accruing to Indigenous Peoples.

- *Ethics*: Indigenous Peoples' rights and wellbeing should be the primary concern at all stages of the data life cycle and across the data ecosystem.

As mainstream data communities advance standards and practices to facilitate data sharing and reuse, the CARE Principles serve to enhance that work to allow for Indigenous participation on their own terms. Implementation of the CARE Principles alongside the FAIR Principles by data producers, stewards and publishers must occur with the use of mechanisms that convey Indigenous control throughout data lifecycles and ecosystems. Such mechanisms comprise but are not limited to including origin information in metadata, using dynamic consent for reuse, and employing data science practices to enhance data protections while allowing for data sharing.

Indigenous data sovereignty and Open Data

On a global scale, ID-SOV scholars and practitioners have engaged with Open Data and open government communities through participation in the International Open Data Conferences in 2015, 2016, and 2018, as well as via discussions with the International Open Data Charter (ODC).¹³ Open Data environments are sites of unease for Indigenous Peoples as opportunities for sustainable development and participation in the knowledge economy are hampered by ongoing experiences with settler-colonialism and historic power imbalances.¹⁴ The ODC sets out six principles to guide how governments publish data: 1) open by default, 2) timely and comprehensive, 3) accessible and usable, 4) comparable and interoperable, 5) for improved governance and citizen engagement, and 6) for inclusive development and innovation. The ODC Implementation Working Group discussed operationalizing the CARE Principles in Open Data contexts, using the ODC as a guide. ODC Principles 2, 3, and 4 coincide with the FAIR Principles. Principles 5 and 6 are purpose driven, addressing the CARE Principle of 'Collective benefit'. ODC Principle 1 (open by default) sits in direct conflict with the CARE Principles of

‘Authority to control,’ ‘Responsibility’ and ‘Ethics’.^{15,16} As such, the CARE Principles provide an opportunity to inform the application of ‘Open by Default,’ raising awareness of the responsibility: to include Indigenous Peoples and other communities in Open Data decision-making; to access and apply Indigenous values and ethics to Open Data policies and practices; and to create mechanisms that protect the access and use of Indigenous Peoples’ data.

2018 New Zealand Census

Issues relating to control, consent and the secondary use of Indigenous data came to a head in Aotearoa New Zealand with the botched 2018 Census of Population and Dwellings. The census is the flagship of the Official Statistics System (OSS), providing essential data for monitoring national and community wellbeing, and informing decisions about the resourcing of services and infrastructure. Despite a fraught history of state-controlled data collection which facilitated domination and exploitation, the Indigenous Māori people generally support and see value in the census, and there is a shared interest in ensuring that it is high quality.

Operational failures resulted in a very low response rate in 2018 – less than 70% from individual forms for Māori.¹⁷ Stats NZ, the national statistics office, tried to backfill the missing data by drawing extensively on other government administrative data – a move that was publicly challenged by the Māori Data Sovereignty Network Te Mana Raraunga (TMR). In a series of public statements,¹⁸ TMR questioned whether the agency had social and cultural licence to use alternative data without free, prior and informed consent, and called on the agency to be more transparent about the quality of Māori data from Census 2018. A report by an independent data quality panel also raised questions about Stats NZ’s social and cultural licence to include other government data in the Census 2018 dataset.¹⁹ The panel also flagged the importance of Māori data sovereignty and governance for future censuses and noted that the agency had not met its treaty obligations to Māori by failing to collect high quality tribal data.

Opportunities and challenges ahead

The rise of Big Data technologies heralds a period of unprecedented and accelerating change in data ecosystems, globally. These technologies, combined with a nation state led impetus for Open Data underpin new data practices such as administrative data linkage, data mining across multiple platforms and the incorporation of Artificial Intelligence (AI) into social programs. For Indigenous Peoples, this new data world provides previously unimagined opportunities to access our data as a cultural and economic resource. For example, the huge cache of Indigenous-related administrative data could potentially instigate a new era of Indigenous policy development and delivery, and AI is being used to tell stories on country and in language revitalisation activities.^{20,21}

This rapidly evolving space also poses new challenges. The legacy of traditional data ecosystems translates to a Big Data infrastructure that neither recognises Indigenous worldviews nor considers Indigenous data needs. Domestic regulatory frameworks focus on individual privacy, with little regard of collective rights or privacy. For example, a discussion paper on upcoming legislation for Australian Government Departments to release and share data did not include any reference to Indigenous data.²² This absence was remedied via submissions from the Maïam nayri Wingara Collective, but the exclusion of Indigenous considerations in this new data space highlights the challenge. While the Report of the UN Special Rapporteur on the Rights of Privacy includes ID-SOV related recommendations these remain non-binding on nation states.

There is also a growing awareness of the harm that can arise from the careless use of Big Data and algorithmic processes, particularly for groups that are racialised and over-surveilled. The marginalised social, cultural and political location of Indigenous Peoples means that we are over-represented in datasets relating to disadvantage. Resultant analysis, regardless of the data power of the technologies utilised, will likely just reinforce rather than challenge the trope of 5 D (disparity, difference, disadvantage, dysfunction, difference) Indigenous data narratives.²³

Finally, in the context of climate change and environmental justice, there is a risk that collective Indigenous knowledge and traditions re-

lating to the environment will be exploited or inappropriately used. In Australia, for example, the recent catastrophic bushfires have belatedly bought to the fore an interest by government entities and others²⁴ in Aboriginal cool fire burning. Practiced across Australia, traditional cool fire burning involved the deliberate firing of the forest understorey during the cooler months, in a mosaic pattern that would ensure different parts of the forest were burnt each year. These fires burned at a much lower intensity than wildfires, keeping the tree canopy protected. The purpose was to manage the landscape, keep trails and grasslands open and reduce the impact of the expected hot season wildfires through the reduction in ground level fuel load.²⁵ However, in modern day Australia, where towns have been built in places Aboriginal and Torres Strait Islander peoples knew to vacate during fire season, such practices cannot just be picked up as a panacea to mitigate the increased risk of fires due to climate change. Data needs to be sought and collected on these practices from Indigenous knowledge holders. More importantly, this process must be Indigenous led and Indigenous controlled to reduce the risk that these practices will be digitally captured and then applied without the deep knowledge that underpins them - with predictable poor results.

ID-GOV can mediate some of these risks and provide pathways to collective benefits. Within this, building Indigenous data capacity and capability is an essential element of enacting ID-GOV and the associated requisite Indigenous cultural and social licence for Big Data and Open Data access to Indigenous data. Indigenous Data Sovereignty Networks, globally, are involved in this work. In Australia, the Mayi Kuwayu Study examining Aboriginal and Torres Strait Islander wellbeing includes in its methodology, working directly with communities to increase Indigenous data literacy.²⁶ In the United States, the Native Nations Institute provides hands on courses on ID-SOV and ID-GOV for Native researchers and tribal leadership.²⁷

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Indigenous Women at the Commission on the Status of Women (CSW)

The Commission on the Status of Women (CSW) is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and empowerment of women. It is a functional commission of the Economic and Social Council (ECOSOC).

The CSW is instrumental in promoting women's rights, documenting the reality of women's lives throughout the world, and shaping global standards of gender equality and empowerment of women. In 1996, ECOSOC expanded the CSW's mandate and decided that it should take a leading role in monitoring and reviewing progress and problems in the implementation of the 1995 Beijing Declaration and Platform for Action. During the CSW's annual sessions, representatives of Member States, civil society organisations, and UN entities gather for two weeks at the UN headquarters in New York to discuss progress and gaps in the implementation of the 1995 Beijing Declaration and Platform for Action, the key global policy document on gender equality, adopted by the 23rd Special Session of the 2000 (Beijing +5) General Assembly.¹ In addition, they discuss emerging issues that affect gender equality and the empowerment of women.

During the CSW sessions, the Member States agree on measures to accelerate progress on these issues and promote women's enjoyment of their rights in political, economic and social realms. The conclusions and recommendations of each session are forwarded to ECOSOC for follow-up.

2020, a strategic year for Indigenous women

2020 is of crucial importance for the agenda of Indigenous women at the UN, given that it marks the 25th anniversary of the adoption of the Beijing Declaration and Platform for Action. The eyes of states, organisations and allies will be set upon the evaluation of the achievements, challenges and recommendations for gender equity in a world where, paradoxically, violence against women is on the rise, yet women are increasingly organising themselves. Indigenous women arrive on this stage with hundreds of years of experience in defending the lives of our peoples and our territories, with lessons learned through 20 years of global organisation, and with a diagnosis developed through consensus regarding the public institutional actions necessary for a more dignified and equitable life of Indigenous women.

In this framework, it is worthwhile to review the progress² made on the agenda of Indigenous women at the CSW sessions, with particular emphasis on Session Number 63 held in 2019, and on the steps we are taking in advance of Session Number 64.

The participation of Indigenous women in the CSW

The first globally coordinated participation of Indigenous women took place at the Fourth World Conference on Women (which led to the adoption of the 1995 Beijing Declaration and Platform for Action). Since then, with support from friendly states, the Secretariat of the UN Permanent Forum on Indigenous Issues, as well as NGOs and feminist allies, Indigenous women have made major contributions, from an Indigenous perspective, to attain a world not only with greater gender equity and less violence against women, but also greater sustainability.

In particular, the International Forum of Indigenous Women (FIMI) has focused its efforts on this international setting and facilitated co-ordination to increase visibility and engagement of Indigenous women, thereby ensuring a significant presence in decisions taken at this high-level forum and that the voice of Indigenous women is included in the work to be carried out by states and international institutions.

By raising a voice built through consensus, spaces have been

opened through which the perspectives and specific demands of Indigenous women have gained visibility during the CSW sessions. This was first accomplished during Session Number 49,³ held in 2005. Later came Resolution 56/4,⁴ of 2012 (with the section entitled *Indigenous Women: Key Actors in Poverty and Hunger Eradication*). Reference to Indigenous women was also included in the document adopted at Session Number 57,⁵ and at Session Number 61,⁶ in which recognition was given to the importance of economic empowerment for improvement of our social, cultural and political engagement, as well as the importance of our contributions to the communities.

The Commission's Session Number 62⁷ focused on gender equity and the empowerment of rural women and girls. There, Indigenous women made very significant contributions, on account of which CSW's recommendations to the Member States and UN institutions made an urgent call to include the specific conditions, proposals and demands of Indigenous women in decision-making processes.

During Session Number 63,⁸ held 11-22 March 2019, FIMI made recommendations based on the following considerations, which are worth highlighting.

First, it was pointed out that the intersection between access to decent work, social protection, public social services and infrastructure is fundamental for attaining gender equality, the eradication of poverty and to ensure social bonding and inclusive development. It was also emphasised that Indigenous women have a lower level of participation in the remunerated labor force, especially in formal employment, and also have less access to social protection systems addressing specific gender risks, such as maternity and nonremunerated family responsibilities, which diminish their power to have income of their own.

Other challenges for Indigenous women that FIMI presented were unequal access to culturally relevant education and training, lack of recognition and respect for traditional knowledge in national policies, as well as lack of access to credit and market facilities.

At the community level, it was indicated to CSW that rural and Indigenous communities are dealing with critical conditions of vulnerability when faced with infrastructure development projects. This is despite the indication, in General Recommendation No. 34 on the Rights of Rural Women, which states that Member States must ensure that projects are implemented only after participatory gender and environmental im-

pact assessments have been conducted with full participation of rural women, and after obtaining their free, prior and informed consent.

Based on these considerations, Indigenous women called upon Member States, multilateral organisations and key actors to consider the following recommendations pursuant to Agenda 2030:

- Ensure that public investments are made for social protection services and infrastructure with a gender approach in order to support the economy of nonremunerated care and to contribute to job creation for Indigenous women who live in rural areas, with special attention to youth and women with disabilities.
- Promote and protect the rights of Indigenous women and girls through the implementation of specific measures, ensuring access to quality, intercultural, inclusive education, healthcare, public services – including maternity and reproductive rights –, economic resources, access to decent work and to systems of justice in order to eliminate all forms of violence.
- Invest in sustainable infrastructure in keeping with international human rights standards, respecting the right to free, prior, and informed consent at all stages, and the means of subsistence and traditional knowledge of Indigenous Peoples, including the protection of and dialogue with human rights defenders.
- Take concrete measures to eliminate political and structural violence against women, particularly for women in rural and Indigenous zones, by designing public policies and programmes with their corresponding budget allocation, guaranteeing their full and effective participation and respect for their cultural diversity.
- Adopt the recommendation of the UN Permanent Forum on Indigenous Issues to organise an interactive high-level dialogue on the rights of Indigenous women, coinciding with the 25th Anniversary of the Fourth World Conference on Women, in order to review progress towards the Sustainable Development Goals, with a special tie-in to the United Nations Declaration on the Rights of Indigenous Peoples (UNDRIP).

Paragraph 25 of the agreed conclusions of CSW Session Number 63 mentions that the low levels of birth records of Indigenous women may make them more vulnerable to marginalisation, exclusion, discrimina-

tion, violence, statelessness, exploitation and abuse. Its recommendations included express mention of the promotion and protection of the rights of Indigenous and rural women, recognising the intersectionality of discrimination and the barrier constituted by violence, as well as the need to ensure access to quality, inclusive education, health services, public services, financial resources, land, natural resources and decent work.

A call is also made for ensuring truly significant participation of Indigenous women in the economy and in decision-making processes for the protection of ancestral knowledge, and for recognition that Indigenous women in rural contexts often face higher rates of violence, poverty, limitations on health services, and access to information and communication technologies to financial resources and services, infrastructure, education and employment.

Finally, a call is made to recognise the contributions of Indigenous women at a cultural, social, economic, political and environmental level, including in the mitigation of climate change.

Looking towards CSW 64

In the CSW discussions, the collective voice of Indigenous women has been key for including measures that move local economies to eradicate poverty, procure sovereignty, food security and sustainable development.

The importance of this inclusion lies in the fact that the resolutions and recommendations emanating from the CSW constitute a very important framework, which Indigenous women can use as a basis for advocacy in public policies and programme actions since they are commitments assumed by the Member States. It is therefore necessary that Indigenous women at all levels be familiar with these commitments in order to be able to demand that the states fulfill them.

Unfortunately, many commitments appear to just stay on paper. Implementation is the greatest challenge for Indigenous women, which includes having the states assume these commitments at a national level and succeed in making them operational through a legal framework with the necessary resources for their full and effective exercise.

The discussions that have been taken place, and those that will

take place in 2020, also demonstrate that it is still necessary to address challenges presently restricting Indigenous women from fully exercising their individual and collective rights, equity and well-being; the various degrees and manifestations of discrimination and violence; an aggressive appropriation of our lands and resources; militarisation of our territories; forced displacement and migration; as well as criminalisation and repression of social protest, including gender violence, exploitation and human trafficking.

Shedding light on the specific situation of Indigenous women in statistics and public policies; combating the violence they are suffering; gaining access to justice, education and health services (including sexual and reproductive health services) with cultural relevance; accessing quality and culturally adequate education; ensuring economic empowerment of Indigenous women and their organisations; land ownership; the right to free, prior and informed consent; the protection of territories; the exercise of political engagement; and full participation in the implementation of Agenda 2030⁹ are fundamental points of advocacy in order to implement the recommendations of the 1995 Beijing Declaration of Indigenous Women,¹⁰ which Indigenous women affirm as totally pertinent and current.

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